

ARTICLE 3. INDIANA EMPLOYMENT SECURITY ACT; ADMINISTRATION

Rule 1. Contributions; Reports; Sickness and Accident Disability; Group Accounts

646 IAC 3-1-1 Quarterly contributions and reports; taxable wages defined; wage reports

Authority: IC 22-4.1-3-3

Affected: IC 22-4; IC 22-4.1

Sec. 1. (a) Every employer subject to IC 22-4 shall file quarterly contribution reports on forms prescribed by the department, or on electronic media in a format approved by the department. These reports are due on or before the last day of the month next following the quarter for which such reports are filed. Contributions are due and payable at the time these reports are filed, except for those employers who have elected to become liable for payments in lieu of contributions.

(b) Such reports must show the total remuneration paid for covered employment as well as wages subject to contribution. The amount of payroll subject to contribution for any year is termed "wages" and is limited as follows:

(1) "Wages", as used in this section, shall not include remuneration in excess of the taxable wage base established by law paid to an individual by a single employer in a calendar year with the following exceptions:

(A) In cases of an acquisition of the organization, trade, or business of an employer, or the acquisition of a distinct and segregable portion of such business, the remuneration paid to an individual by the predecessor will be combined with remuneration paid to the same individual by the successor in the same calendar year in which the acquisition occurs to determine the taxable wage base limitation.

(B) The remuneration paid by an employer to an employee in another state will be combined with the remuneration paid by the same employer to the same employee in the same calendar year in this state to determine the taxable wage base limitation.

(2) Concurrent with the quarterly contribution report, each employer shall be required to file a wage report. The wage report shall show the total remuneration paid for covered employment to each employee in any calendar quarter. Total remuneration includes taxable wages as well as remuneration in excess of taxable wages paid to each individual in a calendar year.

(Department of Workforce Development; Rule 1; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 864; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 29; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 126; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 36; filed Apr 29, 1957, 4:00 p.m.: Rules and Regs. 1958, p. 50; filed Sep 4, 1959, 9:10 a.m.: Rules and Regs. 1960, p. 31; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 30; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 42; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 71; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 154; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 59; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1907; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Alternatively cited as Sec. I, Rule 1; Part I, Rule 1; Part I, Rule 1. NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-1) to the Department of Workforce Development (646 IAC 3-1-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-2 Reports and contributions due for entire calendar year; newly qualified employers

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 2. (a) Reports and contributions from an employer are required for the entire calendar year in which the employer first becomes subject to the law. The due date of contributions and reports for the quarter or quarters preceding the quarter in which the employing unit qualifies as an employer is the date upon which the employing unit actually acquired the status of an employer within the meaning of the law; however, interest and penalty shall not accrue on past quarters until thirty (30) days after such date.

(b) The reference to contributions in subsection (a) shall not apply to those employers that have elected to become liable for payments in lieu of contributions. However, the reference to reports applies to all employers. *(Department of Workforce Development; Rule 3; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 866; filed Dec 30, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 85; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 72; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 155; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1908; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-2) to the Department of Workforce Development (646 IAC 3-1-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-1-3 "Nothing to report" (Expired)

Sec. 3. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-1-4 Correction of errors; additional contributions due; credits or refunds (Expired)

Sec. 4. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-1-5 Meals and lodging as wages; valuation (Expired)

Sec. 5. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-1-6 Termination or transfer of business; notice; final report; attachment of successor's assets

Authority: IC 22-4.1-3-3

Affected: IC 22-4; IC 22-4.1

Sec. 6. (a) Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustee, trustee in bankruptcy, or other fiduciary, the employer shall immediately notify the department, and contributions with respect to wages for employment up to and including the date of the change of status and with respect to amounts which would otherwise constitute wages, as defined in IC 22-4, except for nonpayment thereof are immediately due and payable. The employer shall immediately file necessary contribution and wage reports, showing all remuneration of each of his employees for employment occurring in the calendar quarter in which the change of status occurred, and all previous unreported contributions and remuneration. Reports covering the calendar quarter in which the change of status occurred shall be marked "final report".

(b) Whenever an employer disposes of his organization, trade, or business, in whole or in part, it shall be the duty of both the employer and his successor to notify the department thereof on the forms prescribed by the department. If the disposing employer is a corporation, the employer shall follow the dissolution procedure described in IC 22-4-32-23. (*Department of Workforce Development; Rule 10; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 870; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 32; filed Jan 17, 1966, 11:50 a.m.: Rules and Regs. 1967, p. 31; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 73; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1910; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-6) to the Department of Workforce Development (646 IAC 3-1-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-7 Successor employers; notice; transfer of experience account; liability for contributions (Expired)

Sec. 7. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-1-8 Termination of coverage; partial disposition of business (Expired)

Sec. 8. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-1-9 Sick pay consideration wages; disability payments defined

Authority: IC 22-4.1-3-3

Affected: IC 22-4-4-1; IC 22-4-4-2; IC 22-4-5-1; IC 22-4-5-2; IC 22-4.1

Sec. 9. (a) "Sick pay", as referred to in IC 22-4-4-1, IC 22-4-5-1, and IC 22-4-5-2, means the amounts paid to an employee during periods of temporary absence due to illness or injury, and it is anticipated by both the employer and the employee that he will return to service; and when the employer holds himself in readiness to receive the services of the employee, the employment relationship is considered to continue. The amounts paid for such absences shall be considered remuneration and deductible income.

(b) Sickness or accident disability payments as referred to in IC 22-4-4-2(b) means payments made to or on behalf of an individual after his employment relationship has been severed by disabling sickness or accident, and it is anticipated that he will not return to employment. (*Department of Workforce Development; PT I, Rule 15; filed Aug 2, 1968, 8:50 a.m.: Rules and Regs. 1969, p. 30; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 75; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 157; filed*

Apr 30, 1992, 5:00 p.m.: 15 IR 1912; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1-9) to the Department of Workforce Development (646 IAC 3-1-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-1-10 Group accounts (Expired)

Sec. 10. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-1-11 Accelerated tax payments under schedule "A"; procedures (Expired)

Sec. 11. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-1-12 Initial and wage reporting requirements for professional employer organizations; separate location accounts; notice of termination

Authority: IC 22-4.1-3-3

Affected: IC 22-4-10-6

Sec. 12. (a) Each professional employer organization, under 646 IAC 3-4-11, that enters into a written agreement to provide services to a business entity during any calendar quarter shall submit to the department no later than the due date for the quarterly unemployment contribution report relating to that quarter, a report identifying the following:

- (1) The name of the business entity to which services are provided.
- (2) The location of the business entity's operations.
- (3) The unemployment insurance account number of the business entity (if any).
- (4) The effective date of the written agreement to provide services.

(b) For each separate client, the professional employer organization must obtain a location code to identify the employees related to that business entity's place of operation.

(c) The professional employer organization must include the respective client location codes with every quarterly wage or contribution report, or both, submitted to the department.

(d) A professional employer organization shall provide the department with written notification via registered mail of the termination of a written agreement to provide services to a business entity within ten (10) business days of such termination. *(Department of Workforce Development; 646 IAC 3-1-12; filed Sep 13, 2004, 9:30 a.m.: 28 IR 560)*

646 IAC 3-1-13 Responsibility of professional employer organization to pay unemployment contributions; resumption of liability by client business entity upon termination of agreement between professional employer organization and client

Authority: IC 22-4.1-3-3

Affected: IC 22-4-32-21

Sec. 13. (a) For the duration of the agreement between a professional employer organization and a client business entity under 646 IAC 3-4-11, the professional employer organization, as the employer of the employees whom it engages to perform services for the client, is responsible for the payment of all unemployment contributions related to said employees for which it is liable under IC 22-4, this article, or any other state or federal laws or regulations relating to unemployment insurance that are applicable to employers on behalf of the client.

(b) Upon termination of the agreement between a professional employer organization and a client business entity under 646 IAC 3-4-11 and proper written notice to the department, the professional employer organization must promptly pay its outstanding liability, including contributions, interest, and penalties, that have accrued on payroll amounts paid by the professional employer organization to employees that it formerly engaged to perform services for the client business entity, up to the date of the termination of said agreement. The professional employer organization will remain responsible for contributions, interest, and penalties that may accrue after the date of the termination if it does not promptly pay its outstanding liability and properly notify the department in writing of such termination.

(c) The department shall maintain the employer account of the client business entity for a period of five (5) full calendar years

after the beginning of the agreement with the professional employer organization. If the agreement between the professional employer organization and the client business entity terminates prior to the end of the five (5) year period, the client shall resume responsibility for all subsequent liability as the employer of its employees as of the date of the termination. The client business entity will revert to its previous employer account number and merit rate. If the agreement between the professional employer organization and the client business entity terminates after the five (5) year period has passed, the client business entity will assume a new employer account number and new employer merit rate. (*Department of Workforce Development; 646 IAC 3-1-13; filed Sep 13, 2004, 9:30 a.m.: 28 IR 561*)

Rule 2. Definitions

646 IAC 3-2-1 Definitions

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 1. The definitions in this rule apply throughout this article. (*Department of Workforce Development; 646 IAC 3-2-1; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1912; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-1) to the Department of Workforce Development (646 IAC 3-2-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-2 "Employee" defined

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 2. "Employee" means any individual performing personal services for remuneration or under a contract of hire. (*Department of Workforce Development; 646 IAC 3-2-2; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1912; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-2) to the Department of Workforce Development (646 IAC 3-2-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-3 "Governmental entity" defined

Authority: IC 22-4.1-3-3

Affected: IC 22-4-8-2; IC 22-4.1

Sec. 3. (a) "Governmental entity" pertains to IC 22-4-8-2(i)(1), a "political subdivision" ordinarily includes a county, city, town, village, or school district, sanitation, utility, reclamation, improvement, drainage, irrigation, flood control, or similar district. The term also includes an instrumentality of the state, or of one (1) or more political subdivisions of the state, or the state and one (1) or more of its political subdivisions.

(b) As used in this section, "instrumentality" means a legal entity organized to carry on some function of government for the state or political subdivision. It is an independent legal entity with the power to hire, supervise, and discharge its employees, and generally it may sue and be sued, enter into a contract, and hold or transfer property in its own name.

(c) Organizations such as libraries and hospitals may be integral parts of cities, counties, or other political subdivisions, and, if so, their coverage would depend on the coverage of the political subdivision of which they are a part. They may be a political subdivision in themselves, or they may be a private nonprofit organization. (*Department of Workforce Development; 646 IAC 3-2-3; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1912; errata filed Jul 16, 1992, 2:00 p.m.: 15 IR 2596; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-3) to the Department of Workforce Development (646 IAC 3-2-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-4 "Full time" defined

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 4. "Full time" means that number of hours which are customarily considered full time prevailing in the industry of establishment. (*Department of Workforce Development; 646 IAC 3-2-4; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-4) to the Department of Workforce Development (646 IAC 3-2-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-5 "Instructional" defined

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 5. "Instructional" means services which consist of the following:

- (1) Teaching, tutoring, or lecturing.
- (2) Directing or supervising the instructional activities of others.
- (3) Counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

(*Department of Workforce Development; 646 IAC 3-2-5; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-5) to the Department of Workforce Development (646 IAC 3-2-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-6 "Research" defined

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 6. "Research" means services which consist of careful and systematic study and investigation in a field of science and knowledge, undertaken to establish facts or principles. (*Department of Workforce Development; 646 IAC 3-2-6; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-6) to the Department of Workforce Development (646 IAC 3-2-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-7 "Principal administrative" defined

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 7. "Principal administrative" means services which consist of managing the educational institution or one (1) of its divisions or departments. Such services include the responsibility for establishing and administering policies, rules, and regulations which have major impact on the overall operations and functions of the educational institution or one (1) of its major divisions or departments. (*Department of Workforce Development; 646 IAC 3-2-7; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1913; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-1.5-7) to the Department of Workforce Development (646 IAC 3-2-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-2-8 "Department" defined (Expired)

Sec. 8. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-2-9 "Board" defined (Expired)

Sec. 9. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

Rule 3. Employment Defined; Single Unit Employers; Trustees; Helpers

646 IAC 3-3-1 Employees of trustee

Authority: IC 22-4.1-3-3
 Affected: IC 22-4.1

Sec. 1. Employees of Trustee. Individuals hired by a trustee to perform services in connection with the trust property and who are paid from the funds of the trust are considered in the employment of the trust and not the trustee. *(Department of Workforce Development; Reg 102; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 875; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-2-2) to the Department of Workforce Development (646 IAC 3-3-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-3-2 Bankruptcy trustee

Authority: IC 22-4.1-3-3
 Affected: IC 22-4.1

Sec. 2. Trustee in Bankruptcy. A trustee in bankruptcy may be an employing unit or an employer, but remuneration paid to him for his services as a trustee in bankruptcy is not considered wages because such trustee is not in employment. *(Department of Workforce Development; Reg 103; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 875; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-2-3) to the Department of Workforce Development (646 IAC 3-3-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-3-3 Common paymaster; designation (Expired)

Sec. 3. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

Rule 4. Qualifying as an Employer

646 IAC 3-4-1 "Twenty weeks" qualification (Expired)

Sec. 1. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-4-2 Four or more employees in one day (Expired)

Sec. 2. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-4-3 Multiple employers (Expired)

Sec. 3. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-4-4 Leased department

Authority: IC 22-4.1-3-3
 Affected: IC 22-4.1

Sec. 4. Leased Department. The lessee of a leased department is considered the employer of individuals performing services for such leased department even though such individuals are hired and paid by the lessor, if the lessor hires and pays such individuals as agent of the lessee. *(Department of Workforce Development; Reg 205; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 878; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-5) to the Department of Workforce Development (646 IAC 3-4-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-4-5 Property managers (Expired)

Sec. 5. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-4-6 Mortgagee or assignee of rent

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 6. Mortgagee or Assignee of Rent. Where property is in the hands of a mortgagee in possession, or an assignee of rent, or the trustee or receiver under the mortgage, or in foreclosure, such mortgagee, assignee, trustee or receiver, and not the owner of the property, is considered the employer of individuals performing services with respect to such property. (*Department of Workforce Development; Reg 207; filed Dec 13, 1945, 10:40 am; Rules and Regs. 1947, p. 878; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-3-7) to the Department of Workforce Development (646 IAC 3-4-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-4-7 Continuing liability (Expired)

Sec. 7. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-4-8 Voluntary election to qualify as employer (Expired)

Sec. 8. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-4-9 Election to cover exempt services (Expired)

Sec. 9. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-4-10 Transfer of all or part of business; division of experience balance (Voided)

Sec. 10. (Voided by P.L.98-2005, SECTION 10, effective July 1, 2005.)

646 IAC 3-4-11 "Professional employer organization" defined

Authority: IC 22-4.1-3-3

Affected: IC 22-4-7-1

Sec. 11. "Professional employer organization" means any entity that contracts to provide the nontemporary, ongoing employee workforce of a client under a written agreement and that under contract and in fact:

- (1) has a right to hire and terminate the employees who perform services for the client;
- (2) sets the rate of pay of the employees, whether or not through negotiations;
- (3) has the obligation to and pays the employees from its own accounts;
- (4) has a general right of direction and control over the employees, including corporate officers, which right may be shared with the client to the degree necessary to allow the client to:
 - (A) conduct its business;
 - (B) meet any fiduciary responsibility; or
 - (C) comply with any applicable statutory or regulatory requirements;
- (5) with respect to all employees to whom it pays wages under an agreement with a client business entity:
 - (A) assumes responsibility for the unemployment insurance coverage;
 - (B) files all required reports;
 - (C) pays all required contributions or reimbursements for which it is liable; and
 - (D) otherwise complies with IC 22-4, this article, or any other state or federal laws or regulations relating to

unemployment insurance that are applicable to employers on behalf of the client; and

(6) provides written notice of the agreement between the professional employer organization and the client to the employees. *(Department of Workforce Development; 646 IAC 3-4-11; filed Sep 13, 2004, 9:30 a.m.: 28 IR 561)*

Rule 5. Qualifying as an Employee

646 IAC 3-5-1 Corporate officers and directors

Authority: IC 22-4.1-3-3

Affected: IC 22-4-8-1

Sec. 1. (a) An officer of a corporation who receives remuneration for his or her services as a corporate officer from a corporation is in employment during the entire term of his or her office, and such remuneration shall be considered as wages.

(b) A director of a corporation, as such, is not considered in employment, and fees paid for attendance at meetings of such board of directors shall not be deemed wages.

(c) A member of a board of directors is in employment, however, if he or she performs services for remuneration for the corporation other than those required by attendance at, and participation in, the meetings of the board of directors.

(d) The remuneration considered wages in subsection (a) shall be deemed wages paid by a professional employer organization, and the corporate officer of a client business entity shall be deemed the employee of the professional employer organization, in the event the services performed as a corporate officer are subject to a written agreement between the professional employer organization and the client business entity as provided in 646 IAC 3-4-11. *(Department of Workforce Development; Reg 301; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 880; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 36; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 38; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 159; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1916; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; filed Sep 13, 2004, 9:30 a.m.: 28 IR 561) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-4-1) to the Department of Workforce Development (646 IAC 3-5-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-5-2 Caddies

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 2. Caddies. A caddy who performs services for a member or guest of a golf club is not in the employment of the club even though his fees are paid directly or indirectly by the club. *(Department of Workforce Development; Reg 304; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 881; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-4-3) to the Department of Workforce Development (646 IAC 3-5-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-5-3 Truckers and draymen (Expired)

Sec. 3. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-5-4 Factory demonstrators

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 4. Factory Demonstrators in Stores. Demonstrators who are placed by a manufacturer in department and specialty stores to aid in the sale of the specialized products of such manufacturer, who are engaged by the manufacturer, who are paid directly or indirectly by the manufacturer, and who work under the direction of the manufacturer, although this direction may be delegated to the retailer, are in the employment of the manufacturer. If the retailer, not acting as an agent for the manufacturer, engages the demonstrator, and the demonstrator works under the direction of the retailer and receives his remuneration directly from the retailer, the retailer is the employer. If the wages are paid in part by the manufacturer and in part by the retailer, the demonstrator is in the employment of both manufacturer and retailer. Each is required to pay contributions on that part of the remuneration which he pays;

provided, that one or both, as the case may be, are employers under the law. (*Department of Workforce Development; Reg 309; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 882; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-4-8) to the Department of Workforce Development (646 IAC 3-5-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 6. Employment and Residence; State Banks; Minors; Extra Workers; Church Employment; Governmental Entity Defined; Crew Leader Defined

646 IAC 3-6-1 Location of employment (Expired)

Sec. 1. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-6-2 Reciprocal agreements

Authority: IC 22-4.1-3-3

Affected: IC 22-4-8-1; IC 22-4-22; IC 22-4.1

Sec. 2. (a) In accordance with reciprocal agreements entered under IC 22-4-22-1 through IC 22-4-22-4, coverage and allocation to certain states of services and wages paid for such services, performed both in Indiana and one (1) or more other states, shall be deemed employment and wages in the state as provided in those agreements so long as they remain in force.

(b) If services are performed both in Indiana and in one (1) or more other states with which no reciprocal agreement exists relating to the allocation of services and wages, and the services are not localized in any state, then contributions will be required on wages for services performed in Indiana, if those services constitute employment within the meaning of IC 22-4-8-1 and if contributions are not required and paid in another state. (*Department of Workforce Development; Reg 402; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 883; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 37; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 159; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1917; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-2) to the Department of Workforce Development (646 IAC 3-6-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-6-3 Child or spouse employed in family business

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 3. (a) A minor child who performs services for a partnership or corporation controlled by the parents of such child is considered in the employment of the partnership or corporation and not in the employment of his or her parents, but such employment is excluded if the firm is a partnership and the parents of the child are the sole owners and members.

(b) Services performed for an employing unit by a child or spouse of the owner do not constitute employment, but if the employing unit is a partnership an exempt relationship must exist with each member before such services shall be deemed as excluded services. (*Department of Workforce Development; Reg 404; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 884; filed Aug 8, 1979, 1:17 p.m.: 2 IR 1221; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1917; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-4) to the Department of Workforce Development (646 IAC 3-6-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-6-4 Extra workers for Saturdays or rush periods (Expired)

Sec. 4. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-6-5 Churches and religious organizations

Authority: IC 22-4.1-3-3

Affected: IC 22-4-8-2; IC 22-4.1

Sec. 5. (a) As used in this rule, the following definitions under IC 22-4-8-2(j)(3)(A) apply:

(1) "Church" is used in its limited sense and is synonymous with an individual house of worship maintained by a particular congregation.

(2) "Convention" and "association" refer to formal and informal groups of churches, clergy, or laymen, whether of a continuing nature or meeting periodically, whose purpose is primarily concerned with religious and denominational matters of the group or groups represented. However, the exclusion does not apply to service performed for a facility or organization which may be religious in orientation unless it is operated primarily for religious purposes and is operated by a church (or a convention or association of churches). Thus, the service of a janitor of a church is excluded, but the service of a janitor for a separately operated college, day care center, public book store, although they may be church related, is covered.

(b) Service for a college devoted primarily to the preparation of students for the ministry is exempt, as is the service for a novitiate or a house of study training candidates to become members of a religious order. On the other hand, a church related charitable organization, such as an orphanage or home for the aged, is not considered to be operated primarily for religious purposes.

(c) Under IC 22-4-8-2(j)(3)(B), the exclusion of service performed by ministers in the exercise of their ministry and by members of a religious order in performing the duties required by such order applies only when such service is performed for nonprofit organizations required to be covered by the state law.

(d) A minister is "ordained, commissioned, or licensed" if he has been vested with ministerial status in accordance with the procedure followed by the particular church denomination. However, he does not have to be connected with a congregation. Ministerial authority continues until revoked by the church.

(e) "Exercise of the ministry" includes the following:

(1) The conduct of religious worship and the ministration of sacerdotal functions.

(2) Service performed in the control, conduct, and maintenance of:

(A) a religious organization under the authority of a religious body constituting a church or church denomination; or

(B) an organization operated as an integral agency of such a religious organization or of a church or church denomination.

(3) Service performed for any organization under an assignment or designation by a church (not including cases in which a church merely helps a minister by recommending him for a position involving nonministerial services for an organization not connected with the church).

(4) Missionary service or administrative work in the employ of a missionary organization.

(f) "Control, conduct, and maintenance" of an organization does not include services such as operating an elevator or being a janitor, but refers to services performed in the directing, management, or promotion of the activities of the organization.

(g) As established in subsection (e), service of a clergyman as a chaplain in an orphanage or in a retirement home is excluded since his service is in the exercise of his ministry as is the service of members of a teaching or nursing order who are engaged in teaching or nursing. In the case of a member of a religious order, the criterion is whether the order requires the performance of such service. (*Department of Workforce Development; PT II, Reg 406; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 160; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1917; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-5-6) to the Department of Workforce Development (646 IAC 3-6-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 7. Exempt Employers and Employees

646 IAC 3-7-1 Agricultural labor; exempt services

Authority: IC 22-4-1-3-3

Affected: IC 22-4-7-2; IC 22-4.1

Sec. 1. (a) Agricultural labor does not include services performed in connection with forestry, lumbering, or landscaping.

(b) Greenhouses and other similar structures used primarily for other purposes, for example, display, storage, and fabrication of wreaths, corsages, and bouquets, do not constitute farms.

(c) Services performed for the owner or tenant or operator of one (1) or more farms in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment are excepted as agricultural labor, provided the major part of such services is performed on a farm. Such services may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled and semiskilled workers

which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged. Since such services must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to services performed for a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(d) Exempt services do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the excepted services must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivery to storage or to market, or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities, except to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm.

(e) Subsequent to December 31, 1977, the exemption of agricultural employment does not apply to those employers meeting the requirements of IC 22-4-7-2(e). (*Department of Workforce Development; Reg 505; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 887; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 161; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 65; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1918; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-2) to the Department of Workforce Development (646 IAC 3-7-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-2 Domestic service; exempt services

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 2. (a) Services of a household nature performed by an individual in or about the private home of the person by whom he is employed or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which he is employed are included within the term "domestic service".

(b) As used in this section, a private home is the fixed place of abode of an individual or family.

(c) As used in this section, a local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter.

(d) If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the services performed therein are not excepted. Likewise, if the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for such purposes, the services performed therein are not within the exception.

(e) The services described in subsection (a) are not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, or commercial offices of establishments.

(f) Services performed as a private secretary, even though performed in the employer's home, are not within the exception. (*Department of Workforce Development; Reg 506; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 889; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 66; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1919; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-3) to the Department of Workforce Development (646 IAC 3-7-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-3 Services not in the course of a trade or business (Expired)

Sec. 3. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-7-4 Railroad employees

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 4. Services Performed for Railroad Employers. Services performed with respect to which unemployment benefits are payable under the Railroad Unemployment Insurance Act shall not be deemed employment within the meaning of the law.

(Department of Workforce Development; Reg 508; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 891; filed Sep 25, 1969, 2:50 pm: Rules and Regs. 1970, p. 79; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-5) to the Department of Workforce Development (646 IAC 3-7-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-5 Maritime service; definitions

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 5. Maritime Service. The word, "vessel," includes every description of watercraft or other contrivance used as a means of transportation on water.

The term, "American vessel," means (a) any vessel documented or numbered under the laws of the United States and (b) any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or any state.

Dredges used for navigation and transportation in deepening and removing obstructions from channels, rivers, or other waterways, are "vessels."

The expression, "officer or member of the crew," includes the master or officer in charge of the vessel, however designated, and every individual, subject to his authority, serving on board and contributing in any way to the operation and welfare of the vessel, and includes, for example, the services rendered by the master, mate, pilots, pursers, surgeons, stewards, engineers, firemen, cooks, clerks, carpenters, deck hands, porters, and chambermaids, and by fishermen on fishing vessels. *(Department of Workforce Development; Reg 509; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 891; filed Mar 31, 1948, 9:55 am: Rules and Regs. 1949, p. 39; filed Jul 13, 1972, 11:00 am: Rules and Regs. 1973, p. 162; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-6) to the Department of Workforce Development (646 IAC 3-7-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-7-6 Federal income tax exempt organizations; exempt services

Authority: IC 22-4.1-3-3

Affected: IC 22-4-8-3; IC 22-4.1

Sec. 6. In regard to services described as exempt under IC 22-4-8-3(h), the type of service performed and the place where the services are performed are immaterial; the statutory tests are the character of the organization in whose employ the services are performed and the amount of the remuneration for service performed by the individual in the calendar quarter. *(Department of Workforce Development; Reg 510; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 892; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 39; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 130; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 86; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 79; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 163; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1920; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-7) to the Department of Workforce Development (646 IAC 3-7-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-7-7 Insurance agents and solicitors

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 7. Insurance Agents and Solicitors. Services performed by an individual as an insurance agent or insurance solicitor are excepted, provided such services are performed solely for commissions.

If all or any part of the remuneration of an individual for services performed as an insurance agent or insurance solicitor is a salary, none of his services are excepted and his total remuneration (for example, salary, or salary and commissions) is included for the purposes of computing contributions. *(Department of Workforce Development; Reg 516; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 897; filed Mar 31, 1948, 9:55 am: Rules and Regs. 1949, p. 43; readopted filed Aug 31, 2001, 11:25 a.m.: 25*

IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-10) to the Department of Workforce Development (646 IAC 3-7-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-7-8 Newspaper delivery

Authority: IC 22-4.1-3-3
 Affected: IC 22-4.1

Sec. 8. (a) The services performed by an individual under the age of eighteen (18) years of age in making house-to-house delivery of newspapers or shopping news, including handbills and other similar types of advertising material, are excepted.

(b) Individuals who buy their papers from the publisher and resell them to the public are not in the employment of the publisher. *(Department of Workforce Development; Reg 517; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 897; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 43; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1920; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-11) to the Department of Workforce Development (646 IAC 3-7-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-7-9 Partially exempt services

Authority: IC 22-4.1-3-3
 Affected: IC 22-4-8-3; IC 22-4.1

Sec. 9. (a) In determining coverage or exemption of services under IC 22-4-8-3(s), a "pay period" is the period, of not more than thirty-one (31) consecutive calendar days, for which a payment of remuneration is ordinarily made to the individual by the employing unit. If the periods for which payments of remuneration are made to the individual by an employing unit are of uniform duration, each period constitutes a pay period. If, however, the periods occasionally vary in duration, the pay period is the period for which a payment of remuneration is ordinarily made to the individual by an employing unit, even though that period does not coincide with the actual period for which a particular payment of remuneration is made. For example, if an employing unit ordinarily pays a particular individual for each calendar week at the end of the week, but the individual receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the pay period is still the calendar week; or if, instead, that individual is sent on a trip by the employing unit and receives, at the end of the third week, a single remuneration payment for three (3) weeks' services, the pay period is still the calendar week.

(b) If there is only one (1) period, and such period does not exceed thirty-one (31) consecutive calendar days, for which a payment of remuneration is made to the individual by the employing unit, such period is deemed to be a pay period.

(c) This rule does not apply:

(1) with respect to any services performed by the individual for an employing unit if the periods for which the employing unit makes payments of remuneration to the individual vary to the extent that there is no period for which a payment of remuneration is ordinarily made to the individual;

(2) with respect to any services performed by the individual for the employing unit if the period for which a payment of remuneration is ordinarily made to the individual by the employing unit exceeds thirty-one (31) consecutive calendar days;
 or

(3) with respect to any service performed by the individual for the employing unit during a pay period if any of such service is excepted under IC 22-4-8-3(b).

(d) If, during any period for which an employing unit makes a payment of remuneration to an individual, only a portion of the individual's services constitutes employment, but this rule is not applicable, contributions are due with respect to such services as constitute employment. *(Department of Workforce Development; Reg 518; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 898; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 44; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 164; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1921; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-6-12) to the Department of Workforce Development (646 IAC 3-7-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-7-10 Institutionalized persons (Expired)

Sec. 10. (Expired under IC 4-22-2.5, effective January 1, 2009.)

Rule 8. Wages

646 IAC 3-8-1 Taxable wage base

Authority: IC 22-4.1-3-3

Affected: IC 22-4-4-2; IC 22-4-7-2; IC 22-4.1

Sec. 1. (a) When an employing unit qualifies under IC 22-4-7-2(a) or IC 22-4-7-2(b), the remuneration paid by the predecessor in such calendar year is combined with the remuneration paid by the successor in that same calendar year in determining when an employee has reached the taxable wage base limit.

(b) The combining of the remuneration paid to an individual by separate employers, in establishing the taxable wage base limitation, applies only in successorship cases.

(c) Under IC 22-4-4-2, remuneration paid an employee in another state is considered in determining the taxable wage base limitation for a calendar year, if wages are paid to the same employee by the same employer in this state during a calendar year. (*Department of Workforce Development; Reg 600; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 900; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 44; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 134; filed Apr 10, 1956, 3:10 p.m.: Rules and Regs. 1957, p. 90; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 43; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 82; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 165; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 67; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1922; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-1) to the Department of Workforce Development (646 IAC 3-8-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-2 Certain exclusions from wage calculations

Authority: IC 22-4.1-3-3

Affected: IC 22-4-4-2; IC 22-4.1

Sec. 2. (a) IC 22-4-4-2(b)(4) excludes from the definition of wages amounts paid by an employer to an employee (in absence of a plan or system) for sickness or accident disability, or medical or hospitalization expense, after the expiration of six (6) calendar months following the last calendar month in which the employee performed services for the employer. However, in the absence of a plan or system by the employer to provide for such payments, sick or accident pay will be deemed wages for the first six (6) months following the last month of employment.

(b) IC 22-4-4-2(b)(5) excludes from the definition of wages certain payments from or into a trust exempt from tax under Section 401(a) of the federal Internal Revenue Code or under or to an annuity plan which meets the requirements of Sections 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the federal Internal Revenue Code. Under this section, a payment made by an employer into a trust or annuity plan is excluded from wages at the time of such payment if the trust is tax exempt or the annuity plan meets the requirements of Section 401(a) of the federal Internal Revenue Code at such time. A payment to, or on behalf of, an employee from a trust or under an annuity plan is also excluded from wages if the trust is tax exempt or the annuity plan meets the requirements of Section 401(a) of the federal Internal Revenue Code at the time of the payment to, or on behalf of, the employee. Payments of this type made to, or on behalf of, a beneficiary of an employee are also excluded from wages. A payment made to an employee of a tax exempt trust as remuneration for services rendered as such employee and not as a beneficiary of the trust is not within this exclusion. (*Department of Workforce Development; Reg 601; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 903; filed Jun 15, 1951, 11:00 a.m.: Rules and Regs. 1952, p. 137; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 83; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 167; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1923; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-2) to the Department of Workforce Development (646 IAC 3-8-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-3 Vacation or leave of absence pay

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 3. Remuneration paid by an employer to an employee for vacation periods or leave of absence in the regular course of employment is wages, and such period of vacation with pay or leave with pay is deemed employment since the employment relation has not been terminated. (*Department of Workforce Development; Reg 602; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 904; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1923; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-3) to the Department of Workforce Development (646 IAC 3-8-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-4 Wages in lieu of notice or termination allowances (Expired)

Sec. 4. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-8-5 "Idle time" payments

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 5. Idle Time. Where an employer guarantees to his employees a minimum number of hours of employment per week and makes payments to them for "idle time" when they do not render services for the minimum number of hours, the payment for such idle time constitutes wages subject to contribution. (*Department of Workforce Development; Reg 604; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 904; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-5) to the Department of Workforce Development (646 IAC 3-8-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-6 Disability awards

Authority: IC 22-4.1-3-3

Affected: IC 22-3; IC 22-4.1

Sec. 6. Awards for disability granted by the Indiana worker's compensation board under IC 22-3-2 through IC 22-3-6 and amendments thereto, and likewise payments made to employees under IC 22-3-7, and amendments, are not wages. (*Department of Workforce Development; Reg 605; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 905; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1923; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-6) to the Department of Workforce Development (646 IAC 3-8-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-7 Pensions excluded

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 7. Pensions Are Not Wages. Pensions paid by the employer to retired employees who perform no services for such employer are not wages. (*Department of Workforce Development; Reg 606; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 905; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-7) to the Department of Workforce Development (646 IAC 3-8-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-8 Employee discounts on purchases (Expired)

Sec. 8. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-8-9 Tips and gratuities

Authority: IC 22-4.1-3-3

Affected: IC 22-4-4-2; IC 22-4.1

Sec. 9. Tips and gratuities received by an employee from persons other than his employer and not accounted for to the employer are not wages; however, the amount of tips or gratuities accounted for by the employee to the employer by written statement as required by Section 6053 of the Internal Revenue Code when such tips are in excess of \$20.00 per month, are wages within the meaning of IC 22-4-4-2.

Where an employer does not permit tipping of employees and in lieu thereof adds a certain per cent to the charges made to his patrons and disburses the added amounts to his employees, the sums so disbursed are wages and not tips. (*Department of Workforce Development; Reg 608; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 905; filed Apr 19, 1966, 8:55 am: Rules and Regs. 1967, p. 28; filed Mar 10, 1986, 1:30 pm: 9 IR 1969; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-9) to the Department of Workforce Development (646 IAC 3-8-9) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-10 Prizes and bonuses

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 10. (a) A prize or bonus given by an employer to an employee in cash is wages. When given in any medium other than cash, such prize or bonus will be considered wages unless it is shown that such is not, in fact, remuneration for employment.

(b) A bonus or prize paid in cash or in any other medium, whether or not paid as a result of contractual obligation, shall be reported as wages for the week in which the payment of such bonus or prize is due or paid. (*Department of Workforce Development; Reg 609; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 905; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 47; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 168; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 68; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1924; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-10) to the Department of Workforce Development (646 IAC 3-8-10) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-11 Promissory notes

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 11. Notes Treated as Cash Wages. Where an employee accepts a promissory note in lieu of wages, the face amount of the note at the time it is delivered to and accepted by the employee is considered the amount of wages subject to contribution, and such wages are considered paid at the time of such delivery and acceptance. (*Department of Workforce Development; Reg 611; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 906; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-12) to the Department of Workforce Development (646 IAC 3-8-11) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-12 Payments to partners

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 12. Payments to Partners. Payments made by a partnership to a partner are not wages. A partner is an employer and is not the employee of the partnership. (*Department of Workforce Development; Reg 612; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 906; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-13) to the Department of Workforce Development (646 IAC 3-8-12) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-13 Federal insurance contributions tax

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 13. Where an employer pays the employee's tax levied by the Federal Insurance Contributions Act and does not deduct

the same from wages of the employee, the payment of such tax by the employer is not additional wages payable to the employee. (*Department of Workforce Development; Reg 615; filed Dec 13, 1945, 10:40 am: Rules and Regs. 1947, p. 906; filed Apr 10, 1956, 3:10 pm: Rules and Regs. 1957, p. 91; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-16) to the Department of Workforce Development (646 IAC 3-8-13) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-14 Traveling expenses; commission drawing accounts

Authority: IC 22-4.1-3-3
 Affected: IC 22-4.1

Sec. 14. (a) Amounts advanced or reimbursed to employees for traveling expenses, as such, which are expenses of the employer incurred by the employee incident to his position and the business of his employer, do not constitute wages to the extent of the amount actually expended.

(b) Where an employee is allowed a drawing account against which are credited his earned commissions, and the commissions earned do not equal the amounts withdrawn, and the employee is required to account to the employer for amounts overdrawn, the commissions earned, and not the amounts overdrawn, are considered wages subject to contribution. However, if the employee is not required to account to the employer for such excess payments, then all amounts so advanced to the employee are considered wages.

(c) In determining contributions due for a quarter, each employee is to be considered individually, and, if the expenses of an employee exceed his earnings, the excess may not be credited against the contribution liability incurred by the employer by reason of wages payable to other employees of that employer.

(d) Where an employee earns wages in excess of expenses in one (1) calendar quarter, contributions are due and payable thereon, and, if that employee in a subsequent calendar quarter incurs expenses in excess of his wages, the excess shall not be taken as a credit against contributions due for a previous calendar quarter, or contributions in future months or calendar quarters, respectively. (*Department of Workforce Development; Reg 616; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 907; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1924; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-17) to the Department of Workforce Development (646 IAC 3-8-14) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-8-15 Back pay awards by national labor relations board

Authority: IC 22-4.1-3-3
 Affected: IC 22-4.1

Sec. 15. (a) Awards of back pay to individuals by the national labor relations board, and are reportable as wages for the quarter covered by the award.

(b) Payments of additional wages made pursuant to terms of the fair labor standards act are wages, and are reportable as wages during the quarter covered by the payment. (*Department of Workforce Development; Reg 617; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 908; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 47; filed Sep 25, 1969, 2:50 p.m.: Rules and Regs. 1970, p. 84; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 168; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 68; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1925; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-7-18) to the Department of Workforce Development (646 IAC 3-8-15) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 9. Wages Subject to Contributions; Experience Ratings; Reimbursable Employers; Governmental Employers

646 IAC 3-9-1 Wages subject to contribution; constructive payment (Expired)

Sec. 1. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-9-2 Commissions on installment payments

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 2. Where commissions are paid to salesmen each time a purchaser makes payment under an installment contract, the commissions shall be considered wages paid at the time they are credited to the salesman on the books of the employer. (*Department of Workforce Development; Reg 702; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 910; filed Aug 8, 1979, 1:17 p.m.: 2 IR 1221; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1925; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-2) to the Department of Workforce Development (646 IAC 3-9-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-3 Voluntary payments to secure lower contribution rate (Expired)

Sec. 3. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-9-4 Successor employers; contribution rate (Expired)

Sec. 4. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-9-5 Reimbursable employers; payments in lieu of contributions

Authority: IC 22-4.1-3-3
Affected: IC 22-4-10-1; IC 22-4.1

Sec. 5. Any employer who makes an election to reimburse benefit charges under IC 22-4-10-1(a)(1) and IC 22-4-10-1(a)(2) will continue to be liable for payments in lieu of contributions until it files a written request to terminate its election. If said election is approved, the employer will continue to be liable for payments of benefits which applied to an employee's base period falling in quarters in which the employer's election to reimburse was in effect. (*Department of Workforce Development; Reg 708; filed Nov 26, 1974, 9:45 a.m.: Rules and Regs. 1975, p. 310; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1926; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-6) to the Department of Workforce Development (646 IAC 3-9-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-9-6 Election of payments in lieu of contributions; time for filing (Expired)

Sec. 6. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-9-7 Governmental contribution rates

Authority: IC 22-4.1-3-3
Affected: IC 22-4-11-2; IC 22-4.1

Sec. 7. Under IC 22-4-11-2(d), if the employer is the state or a political subdivision of the state, or any instrumentality of a state or a political subdivision, such employer will pay contributions at the rate of one percent (1%) until subject to this article throughout thirty-six (36) consecutive calendar months immediately preceding the computation date. In the event a city or town had previously been a covered employer to the extent of its municipal utilities, they will pay contributions at their computed rate, but such rate will not exceed one percent (1%). If, by statute, a municipal utility is set apart as a separate political subdivision, such utility will retain their experience account and assigned rate, and IC 22-4-11-2(d) will apply to the new account assigned to the city or town for the purpose of reporting nonutility employment. (*Department of Workforce Development; Reg 710; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 70; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1927; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-8-8) to the Department of Workforce Development (646 IAC 3-9-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 10. Employee Benefits; Payroll and Employment Records; Employer Responsibility; Employment Security Act

646 IAC 3-10-1 Payroll and employment records (Expired)

Sec. 1. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-2 Eligibility information reports; retroactive payment reports; notice of layoffs or labor disputes (Expired)

Sec. 2. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-3 Registration for work; waiver of requirement (Expired)

Sec. 3. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-4 Waiting period (Expired)

Sec. 4. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-5 Availability for work; weekly reporting (Expired)

Sec. 5. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-6 Week defined (Expired)

Sec. 6. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-7 Partial unemployment; filing of claim (Expired)

Sec. 7. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-8 Loss of wage credits; forfeiture of benefit rights (Expired)

Sec. 8. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-9 Warrants (Expired)

Sec. 9. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-10 Confidentiality of payroll records (Expired)

Sec. 10. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-11 Wages in lieu of termination notice, allowance, or accrued vacation pay (Expired)

Sec. 11. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-12 Leave of absence

Authority: IC 22-4.1-3-3

Affected: IC 22-4-15-1; IC 22-4.1

Sec. 12. (a) Where an individual takes voluntary leave of absence with the consent of the employer, it shall not constitute

leaving work voluntarily without good cause within the meaning of IC 22-4-15-1. However, no benefit or waiting period weeks may be accumulated during that period, unless the individual terminates his leave of absence by notifying his employer and making himself available for work.

(b) A leave of absence for a disability granted to an individual by an employer pursuant to the employer's rule or pursuant to terms of a collective bargaining agreement shall be deemed terminated on the day following the disability when the individual again becomes mentally and physically able to work and available for work and establishes their ability to work and availability for work. *(Department of Workforce Development; Reg 815; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 930; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 63; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 24; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 176; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1932; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-14) to the Department of Workforce Development (646 IAC 3-10-12) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-10-13 Benefits due deceased claimants; payment to estate or heirs (Expired)

Sec. 13. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-14 Social Security; identification of employees

Authority: IC 22-4.1-3-3
 Affected: IC 22-4; IC 22-4.1

Sec. 14. (a) Each employer shall ascertain the Social Security number of each worker employed by him or her in employment subject to IC 22-4.

(b) The employer shall report the worker's Social Security number in making any report required by the department with respect to a worker.

(c) No individual will be eligible for a monetary determination of benefits without first providing the department with his or her Social Security number. *(Department of Workforce Development; Reg 818; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 932; filed Feb 11, 1958, 2:00 p.m.: Rules and Regs. 1959, p. 81; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1933; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2858; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-17) to the Department of Workforce Development (646 IAC 3-10-14) by P.L.105-1994, SECTION 5, effective July 1, 1994.*

646 IAC 3-10-15 Payments through public employment offices (Expired)

Sec. 15. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-10-16 Minimum weekly benefits

Authority: IC 22-4.1-3-3
 Affected: IC 22-4-12-2; IC 22-4-15-1; IC 22-4-15-2; IC 22-4.1

Sec. 16. Benefits paid at the rate of the minimum weekly benefit amount established by IC 22-4-12-2 in cases in which an individual's weekly benefit amount actually computes to less than the statutory minimum shall not operate to increase that individual's maximum benefit amount. For the purpose of computation and payment of benefits for partial or part-total unemployment, such benefit shall be an amount which, if added to the deductible income with respect to such week, would equal the statutory minimum. In cases where the actual computed weekly benefit amount of the individual is less than the statutory minimum, and if an earnings requirement is imposed by a disqualification under IC 22-4-15-1 or IC 22-4-15-2, the earnings requirement in those sections means the actual computed weekly benefit amount. *(Department of Workforce Development; Reg 821; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 935; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 65; filed Jun 15, 1955, 9:00 a.m.: Rules and Regs. 1956, p. 216; filed Nov 17, 1971, 9:50 a.m.: Rules and Regs. 1972, p. 25; filed Jul 13, 1972, 11:00 a.m.: Rules and Regs. 1973, p. 176; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 292; filed Mar 28, 1978, 8:57 a.m.: Rules and Regs. 1979, p. 71; filed Dec 11, 1980, 9:50 a.m.: 4 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1935; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203;*

readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-19) to the Department of Workforce Development (646 IAC 3-10-16) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-10-17 Failure to inform claimant of suitable work offers; effect on benefits (Expired)

Sec. 17. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-10-18 Effort to secure full-time work by claimant (Expired)

Sec. 18. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-10-19 Notice to employer by department (Expired)

Sec. 19. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-10-20 Vocational training course attendance (Expired)

Sec. 20. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-10-21 Employment in more than one department of single employer (Expired)

Sec. 21. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-10-22 Employment during more than one period with single employer (Expired)

Sec. 22. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-10-23 Cancellation or withdrawal of claim

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 23. Once a claim has been filed by an individual and it has been established as a valid claim, then during the benefit period established that individual cannot cancel, withdraw, or change the time of filing for the purpose of establishing a different benefit period or for any other purpose. (Department of Workforce Development; Reg 835; filed Jan 3, 1977, 2:43 p.m.: Rules and Regs. 1978, p. 293; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1938; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-9-29) to the Department of Workforce Development (646 IAC 3-10-23) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 11. Interstate Benefit Payment Plan

646 IAC 3-11-1 Interstate benefit payment plan

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 1. This rule governs the state of Indiana in its administrative cooperation with other states adopting a similar regulation for the payment of benefits to interstate claimants. (Department of Workforce Development; Reg 901; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 937; filed Jul 22, 1953, 11:00 a.m.: Rules and Regs. 1954, p. 46; filed Dec 6, 1966, 11:15 a.m.: Rules and Regs. 1967, p. 48; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1938; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-1) to the Department of Workforce Development (646 IAC 3-11-1) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-2 Definitions

Authority: IC 22-4.1-3-3

Affected: IC 22-4-22-3; IC 22-4.1

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Agent state" means any state in which an individual files a claim for benefits from another state.

(c) "Benefits" means the compensation payable to an individual, with respect to his or her unemployment, under the unemployment insurance law of any state.

(d) "Interstate benefit payment plan" means the plan approved by the interstate conference of employment security agencies under which benefits shall be payable to unemployed individuals absent from the state in which benefit credits have been accumulated.

(e) "Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one (1) or more liable states through the facilities of an agent state. The term shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the department finds that this exclusion would create undue hardship on such claimants in specified areas.

(f) "Liable state" means any state against which an individual files, through another state, a claim for benefits.

(g) "State" includes the District of Columbia, Puerto Rico, and the Virgin Islands.

(h) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed. (*Department of Workforce Development; 646 IAC 3-11-2; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1939; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2858; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-2) to the Department of Workforce Development (646 IAC 3-11-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-3 Registration for work

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 3. (a) Each interstate claimant shall be registered for work through any public employment office in the agent state when and as required by the law, regulations, rules, and procedures of the agent state. The registration shall be accepted as meeting the registration requirements of the liable state.

(b) Each agent state shall duly report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state. (*Department of Workforce Development; 646 IAC 3-11-3; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1939; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-3) to the Department of Workforce Development (646 IAC 3-11-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-4 Benefit rights of interstate claimants

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 4. (a) If a claimant files a claim against any state, and it is determined by the state that the claimant has available benefit credits in such state, then claims shall be filed only against the state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(b) Under this rule, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. (*Department of Workforce Development; 646 IAC 3-11-4; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1939; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-4) to the Department of Workforce Development (646 IAC 3-11-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-5 Claims for benefits

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 5. (a) Claims for benefits or waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with the uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(b) Claims shall be filed in accordance with agent state rules or regulations for intrastate claims in local employment offices, at an itinerant point, or by mail.

(c) With respect to claims for weeks of unemployment in which an individual was not working for his regular employer, the liable state shall, under circumstances which it considers good cause, accept a continued claim filed up to one (1) week, or one (1) reporting period, late. If a claimant files more than one (1) reporting period late, an initial claim must be used to begin a claim series, and no continued claim for a past period shall be accepted.

(d) With respect to weeks of unemployment during which an individual is attached to his regular employer, the liable state shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent state. (*Department of Workforce Development; 646 IAC 3-11-5; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-5) to the Department of Workforce Development (646 IAC 3-11-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-6 Determination of claims

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 6. (a) The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(b) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim. (*Department of Workforce Development; 646 IAC 3-11-6; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-6) to the Department of Workforce Development (646 IAC 3-11-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-7 Appellate procedure

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 7. (a) Appeals shall be conducted in accordance with the interstate agreement.

(b) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state. (*Department of Workforce Development; 646 IAC 3-11-7; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-7) to the Department of Workforce Development (646 IAC 3-11-7) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-11-8 Extension of interstate benefit payments to include claims taken in and for Canada

Authority: IC 22-4.1-3-3
Affected: IC 22-4.1

Sec. 8. This rule shall apply in all its provisions to claims taken in and for Canada. (*Department of Workforce Development; 646 IAC 3-11-8; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1940; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-10-8) to the Department of Workforce Development (646 IAC 3-11-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 12. Appellate Procedure

646 IAC 3-12-1 Request for hearing before administrative law judge; statement of contention; notice of hearing (Expired)

Sec. 1. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-2 Disqualification of administrative law judge

Authority: IC 22-4.1-3-3

Affected: IC 22-4-17-15; IC 22-4.1

Sec. 2. An administrative law judge shall abide by and follow IC 22-4-17-15 to ensure the appearance of impartiality. Challenges to the impartiality of an administrative law judge shall be heard and decided by the review board. (*Department of Workforce Development; Reg 1002; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 942; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1941; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-2) to the Department of Workforce Development (646 IAC 3-12-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-3 Conduct of hearings before administrative law judge (Expired)

Sec. 3. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-4 Continuances (Expired)

Sec. 4. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-5 Withdrawal from appeal; reinstatement petition (Expired)

Sec. 5. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-6 Decision of administrative law judge (Expired)

Sec. 6. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-7 Request for appeal to review board (Expired)

Sec. 7. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-8 Conduct of hearing before review board

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 8. (a) Unless otherwise directed by the review board, all hearings before the review board shall be conducted in the office of the review board in the city of Indianapolis, Indiana.

(b) Each hearing before the review board shall be confined to the evidence submitted before the administrative law judge unless

it is an original hearing. Provided, however, the review board may hear or procure additional evidence upon its own motion, or upon written application of either party, and for good cause shown, together with a showing of good reason why such additional evidence was not procured and introduced at the hearing before the administrative law judge. An application for leave to introduce additional evidence made by either party shall set forth the names of the witnesses whose testimony will be offered and the facts to which they are expected to testify. If the new evidence is documentary, then a copy of the document proposed to be introduced shall accompany the application. Such application, if made by the appellant, must be presented at the time the request for hearing is filed. No additional evidence shall be taken except after notice is issued by the review board to all parties to such appeal giving each party an opportunity to rebut the additional evidence. The notice shall designate the time when and place at which additional evidence will be received and shall set forth the names of the witnesses whose testimony will be heard, together with a summary of the facts about which they are expected to testify, and shall include a copy of any document offered as additional evidence. It is further provided, however, that if all parties to an appeal are present at a hearing at which the review board upon its own motion determines to take additional evidence and the parties voluntarily waive their right of notice of the taking of additional evidence, the review board in its own discretion may proceed in the taking of additional evidence.

(c) The review board may remand any proceeding to an administrative law judge for the hearing of additional evidence under the same conditions and after like notice as is provided for the hearing of additional evidence by the review board.

(d) In the hearing of an appeal, the review board may limit the parties to oral argument, or the filing of written argument, or both. After notice to all parties, any party to any proceeding in which additional evidence is taken may present material evidence relative to the question upon which the review board has authorized or directed the taking of additional evidence, and evidence in rebuttal also may be introduced.

(e) The proceeding of any claim before an administrative law judge ordered by the review board to be removed until it shall be presented, heard, and decided by the review board in the manner prescribed for the hearing of claims before an administrative law judge. (*Department of Workforce Development; Reg 1008; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 945; filed Mar 31, 1948, 9:55 a.m.: Rules and Regs. 1949, p. 70; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1943; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-8) to the Department of Workforce Development (646 IAC 3-12-8) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-9 Decision of review board (Expired)

Sec. 9. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-10 Witnesses; subpoena; fees; limitation (Expired)

Sec. 10. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-11 Representation before administrative law judge or review board (Expired)

Sec. 11. (*Expired under IC 4-22-2.5, effective January 1, 2009.*)

646 IAC 3-12-12 Records of decisions

Authority: IC 22-4.1-3-3

Affected: IC 22-4-17-3; IC 22-4-17-5; IC 22-4.1

Sec. 12. Copies of all decisions of the administrative law judge and of the review board shall be kept on file at the office of the department, Indianapolis, Indiana. These decisions shall not be open to public inspection in a manner as to reveal the names or addresses of the interested parties or their witnesses. (*Department of Workforce Development; Reg 1013; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 948; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1946; filed Aug 1, 1994, 5:00 p.m.: 17 IR 2859; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-13) to the Department of Workforce Development (646 IAC 3-12-12) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-13 Pleadings; forms (Expired)

Sec. 13. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-14 Cause number; subsequent pleadings (Expired)

Sec. 14. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-15 Service of notice (Expired)

Sec. 15. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-16 Depositions; translations (Expired)

Sec. 16. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-17 Docket; order book (Expired)

Sec. 17. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-18 Convening review board; quorum; amendment of rules of procedure (Expired)

Sec. 18. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-19 Recording hearings; transcripts

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 19. All evidence introduced at any hearing before the review board or an administrative law judge shall be preserved, and all oral evidence shall be recorded, but it shall not be necessary to transcribe the same unless further proceedings are had in which the evidence shall be in issue or be required for a proper determination of the proceeding. A transcript will be prepared only when ordered by the review board for its use or as required for judicial proceedings. (*Department of Workforce Development; Reg 1020; filed Dec 13, 1945, 10:40 a.m.: Rules and Regs. 1947, p. 950; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1947; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-11-20) to the Department of Workforce Development (646 IAC 3-12-19) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-12-20 Transfer of hearing to unemployment insurance board (Expired)

Sec. 20. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-21 Telephone hearings (Expired)

Sec. 21. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-12-22 Job training and counseling (Expired)

Sec. 22. (Expired under IC 4-22-2.5, effective January 1, 2009.)

Rule 13. Reciprocal Arrangements

646 IAC 3-13-1 Reciprocal coverage of multistate workers (Expired)

Sec. 1. (Expired under IC 4-22-2.5, effective January 1, 2009.)

646 IAC 3-13-2 Definitions

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Agency" means any officer, board, commission, or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

(c) "Customarily performed services by an individual in more than one (1) jurisdiction" means services performed in more than one (1) jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one (1) jurisdiction or if such services are required or expected to be performed in more than one (1) jurisdiction under the election.

(d) "Interested jurisdiction" means any participating jurisdiction to which an election submitted under this rule is sent for its approval.

(e) "Interested agency" means the agency of jurisdiction.

(f) "Jurisdiction" means any state of the United States, the District of Columbia, Canada, or, with respect to the federal government, the coverage of any federal unemployment compensation law.

(g) "Participating jurisdiction" means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated. (*Department of Workforce Development; 646 IAC 3-13-2; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1950; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*)
NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-2) to the Department of Workforce Development (646 IAC 3-13-2) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-3 Submission and approval of coverage elections under the interstate reciprocal coverage arrangement

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 3. (a) Any employing unit may file an election to cover under the law of a single participating jurisdiction all of the services performed for him by an individual who customarily works for him in more than one (1) participating jurisdiction. An election may be filed, with respect to an individual, with any participating jurisdiction in which:

- (1) any part of the individual's services are performed;
- (2) the individual has his or her residence; or
- (3) the employing unit maintains a place of business to which the individual's services bear a reasonable relation.

(b) The agency of the elected jurisdiction shall initially approve or disapprove the election. If the agency approves the election, it shall forward a copy to the agency of each other participating jurisdiction specified, under whose unemployment compensation law the individual or individuals in question might, in the absence of the elections, be covered. Each interested agency shall approve or disapprove the election, as promptly as practicable, and shall notify the agency of the elected jurisdiction accordingly.

(c) In case its law so requires, any interested agency may, before taking action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election.

(d) If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons.

(e) An election shall take effect as to the elected jurisdiction only if approved by its agency and by one (1) or more interested agencies. An election thus approved shall take effect, as to any interested agency, only if it is approved by the agency.

(f) In case any election is approved only in part, or is disapproved by some of the agencies, the electing employing unit may withdraw its election within ten (10) days after being notified of this action. (*Department of Workforce Development; 646 IAC 3-13-3; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1950; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*)
NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-3) to the Department of Workforce Development (646 IAC 3-13-3) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-4 Effective period of elections

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 4. (a) An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted unless the election, as approved, specifies the beginning of a different calendar quarter. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, the earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question.

(b) The application of an election to any individual under this rule shall terminate, if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed, so that they are no longer customarily performed in more than one (1) participating jurisdiction. Such termination shall be effective at the close of the calendar quarter in which notice of the finding is mailed to all parties affected.

(c) Except as provided in subsection (b), each election approved shall remain in effect through the close of the calendar year in which it is submitted until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

(d) Whenever an election under this rule ceases to apply to any individual under subsection (b) or (c), the electing unit shall notify the affected individual accordingly. (*Department of Workforce Development; 646 IAC 3-13-4; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1951; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-4) to the Department of Workforce Development (646 IAC 3-13-4) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-5 Reports and notices by the electing unit

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 5. (a) The electing unit shall promptly notify each individual affected by its approved election and shall furnish the elected agency a copy of the notice.

(b) Whenever an individual covered by an election under this rule is separated from employment, the electing unit shall notify the individual as to the jurisdiction under whose unemployment compensation law the services have been covered. If, at the time of termination, the individual is not located in the elected jurisdiction, the electing unit shall notify the individual as to the procedure for filing interstate benefit claims.

(c) The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one (1) participating jurisdiction or where a change in the work assigned to an individual requires him or her to perform services in a new participating jurisdiction. (*Department of Workforce Development; 646 IAC 3-13-5; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1951; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-5) to the Department of Workforce Development (646 IAC 3-13-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-13-6 Approval of reciprocal coverage elections

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 6. The Indiana unemployment insurance board delegates to the director of the department authority to approve or disapprove reciprocal coverage elections in accordance with this rule. (*Department of Workforce Development; 646 IAC 3-13-6; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1952; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA*) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-12-6) to the Department of Workforce Development (646 IAC 3-13-6) by P.L.105-1994, SECTION 5, effective July 1, 1994.

Rule 14. Liability Referee Hearings (Expired)

(Expired under IC 4-22-2.5, effective January 1, 2009.)

Rule 15. Seasonal Employment

646 IAC 3-15-1 Seasonal employer; determination by department (Expired)

Sec. 1. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-2 Seasonal employer; appeal to department (Expired)

Sec. 2. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-3 Seasonal employer; portion of business considered seasonal (Expired)

Sec. 3. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-4 Seasonal workers; definition; requirements (Expired)

Sec. 4. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-5 Seasonal workers; notification to employee of employment limitations

Authority: IC 22-4.1-3-3

Affected: IC 22-4.1

Sec. 5. An approved seasonal employer must notify the seasonal employee in writing of the following:

- (1) The employee has been hired for a specific temporary seasonal period as determined by the department.
- (2) The employee is performing services in seasonal employment for an approved seasonal employer.
- (3) Employment is limited to the beginning and ending dates of the seasonal period as determined and approved by the department.

(Department of Workforce Development; Reg 1305; filed Oct 19, 1983, 10:25 a.m.: 7 IR 47; filed Apr 30, 1992, 5:00 p.m.: 15 IR 1954; readopted filed Aug 31, 2001, 11:25 a.m.: 25 IR 203; readopted filed Dec 1, 2008, 2:46 p.m.: 20081224-IR-646080761RFA) NOTE: Transferred from the Indiana Unemployment Insurance Board (640 IAC 1-14-5) to the Department of Workforce Development (646 IAC 3-15-5) by P.L.105-1994, SECTION 5, effective July 1, 1994.

646 IAC 3-15-6 Seasonal employer; seasonal determination; effective date (Expired)

Sec. 6. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-7 Seasonal employer; reporting wages (Expired)

Sec. 7. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-8 Claims for benefits; filing period (Expired)

Sec. 8. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-9 Seasonal operations; loss of seasonal status (Expired)

Sec. 9. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

646 IAC 3-15-10 Reinstatement of seasonal status (Expired)

Sec. 10. *(Expired under IC 4-22-2.5, effective January 1, 2009.)*

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